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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re the Marriage of SUSAN and RICHARD
BLACKBURN.

RICHARD BLACKBURN,

Appellant,

v.

SUSAN HOFFMAN,

Respondent.

F044612

(Super. Ct. No. 03-205841)

OPINION

APPEAL from an order of the Superior Court of Tulare County. Brett R. Alldredge,
Commissioner.

Richard Blackburn, in pro per., for Appellant.

No appearance for Respondent.

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Appellant, Richard Blackburn, challenges the trial court's refusal to lift the order requiring him to keep his stepchildren on his health insurance policy during the pendency of his dissolution from respondent, Susan Hoffman. According to appellant, the trial court did not have jurisdiction to make such a restraining order because the insureds are not children of the marriage.

Contrary to appellant's position, the trial court can require the continued health care coverage of appellant's stepchildren. The trial court has jurisdiction to make orders concerning the support of respondent. Requiring medical coverage for respondent's children during the dissolution proceeding is a form of support. Thus, the order appealed from will be affirmed.

BACKGROUND

When dissolution proceedings were instituted, an order temporarily restraining appellant from changing the beneficiaries on his health insurance policy was automatically imposed. Appellant moved to have this order lifted with respect to his stepchildren. According to appellant, the trial court did not have jurisdiction to make such an order with respect to respondent's children.

At the hearing on this motion, the court asked appellant what it cost him to continue to insure respondent's children. Appellant responded that there was no additional cost. The court then denied appellant's motion and noted that the temporary restraining orders were to continue in effect. The court further ordered appellant to pay \$60 to respondent to cover her cost of obtaining the transcript of an earlier hearing wherein appellant was admonished to keep these children on his health insurance policy.

DISCUSSION

1. The order denying appellant's motion is appealable.

Respondent filed a motion to dismiss arguing that this appeal is from a nonappealable order. Respondent thereafter informed this court that she would not be filing a formal response brief.

Contrary to respondent's position, this appeal is properly before this court. The trial court refused to dissolve a temporary restraining order. Such an order is separately appealable. (Code Civ. Proc., § 904.1, subd. (a)(6); *McLellan v. McLellan* (1972) 23 Cal.App.3d 343, 357.)

2. *The trial court had jurisdiction to restrain appellant from removing the children from his health insurance policy.*

Family Code section 2040, subdivision (a)(3) provides that a summons in a dissolution proceeding shall contain a temporary restraining order restraining both parties from “changing the beneficiaries of any insurance or other coverage, including ... health, ... held for the benefit of the parties and their child or children for whom support may be ordered.” Appellant argues that, because respondent’s children are not his children, the trial court did not have jurisdiction to restrain him from removing those children from his health insurance policy.

However, under Family Code section 2010 the trial court did have that power. The court in a proceeding for dissolution of marriage has jurisdiction to inquire into and make orders that are appropriate concerning “[t]he support of either party.” Since respondent is required to support her children, ordering appellant to continue to insure those children during the dissolution proceeding is a form of support for respondent. (Cf. *In re Marriage of Stimel* (1996) 49 Cal.App.4th 991, 995.)

DISPOSITION

The order denying appellant’s request to remove his stepchildren from his health insurance policy is affirmed. Costs on appeal are awarded to respondent.

Levy, J.

WE CONCUR:

Harris, Acting P.J.

Wiseman, J.